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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Jens Spille

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11/07/2008

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EXAMINER

LERNER, MARTIN

ART UNIT

PAPER NUMBER

2626

MAIL DATE

DELIVERY MODE

11/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/536,739	Applicant(s) SPILLE ET AL.	
	Examiner MARTIN LERNER	Art Unit 2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11 to 17 is/are pending in the application.
- 4a) Of the above claim(s) 16 to 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10 to 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicants' election without traverse of Group I, Claims 10 to 15, in the reply filed on 26 August 2008 is acknowledged.
2. Claims 16 to 17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 26 August 2008.

Drawings

3. After reviewing the Specification, it is not clear whether the current application is intended to have drawings or not. Applicants' certified copy of their two priority documents, EP 02026770.4 and EP 03016029.5, include Figures 1 to 3. However, there are no corresponding Figures 1 to 3 that were found to be filed with the current application either with the Transmittal of New Application filed 27 May 2005 or the Notice of Acceptance mailed 09 September 2005. Moreover, as the Specification did not include any references to drawings, it was presumed that the current application was being filed without drawings. Thus, Applicants should clarify whether the current application was intended to be filed with drawings or without drawings. If the current application was intended to be filed with drawings, then the drawings should be resubmitted as additional drawing sheets, and Applicants' Specification should be

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amended to add a brief description of the drawings and reference numerals corresponding to the elements of the drawings. Conventionally, a patent application includes drawings, but there is no present requirement that the current patent application must have drawings. Any changes by Applicants should not introduce new matter.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 10 to 15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

Applicants' new independent and dependent claims present issues of new matter because the Specification as originally filed does not describe the newly claimed subject matter in a manner that one skilled in the art would find that Applicants had possession of it in their originally-filed Specification.

Regarding independent claim 10, the limitations of "wherein said height information is mapped to audio depth information perpendicular to the 2D video plane and said width information remains audio width information" and "extracting a third

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coordinate value and adding the third coordinate value as new audio height information to a 3D audio position vector" involve new matter. Specifically, Applicants' originally-filed Specification does not say anything about the width information remaining audio width information. Nor does Applicants' Specification say that height information is mapped to audio depth information perpendicular to a 2D video plane. Generally, the Specification does not even appear to disclose the concepts of audio height information and audio width information. At best, Applicants' Specification, Page 3, Line 7 to Page 4, Line 2, discloses that there is some transformation of 2D coordinate system values to three dimensional positions to enable movement of an object in a screen plane to be mapped to movement of an audio object in a depth perpendicular to the screen plane. However, there is no clear disclosure of height information, audio depth information, width information, audio width information, or extracting a third coordinate value to add new audio height information.

Regarding claim 11, the limitations of "includes in a first node said width and height information and in a second node said third coordinate value and data defining said transformation" involve new matter. Applicants' originally-filed Specification, Page 2, Line 31 to Page 3, Line 1 and Page 3, Lines 22 to 28, discloses that first nodes may correspond to audio objects and that second nodes may describe the presentation of audio objects, but does not say that the first nodes correspond to height and width information nor does it say that the second nodes contain either a third coordinate value or data defining the transformation. Any presentation of audio objects that may be

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described by the second nodes is distinct from a transformation from a 2D coordinate system to a 3D coordinate system.

Regarding claim 14, the limitations of a mapping being performed “according to a 2x3 matrix or corresponding rotation around the horizontal or width axis” involves new matter. Briefly, Applicants’ originally-filed Specification, Page 7, Line 28 to Page 8, Line 10, says something about a mapping transformation of a 2 rows by 3 columns vector, but there is nothing that clearly discloses that the mapping transformation is performed with a 2x3 matrix. Nor is there anything at all in Applicants’ originally-filed Specification that says the transformation relates to a rotation around the horizontal or width axis.

Regarding claim 15, the limitation of a field of a second node defining “said third coordinate and said transforming” involves new matter. Applicants’ originally-filed Specification, Page 2, Line 31 to Page 3, Line 1 and Page 3, Lines 22 to 28, discloses that second nodes may describe the presentation of audio objects, but does not disclose any field describing a third coordinate and the transforming. Any presentation of audio objects as might be described by a second node is distinct from a manner of transforming from 2D coordinate system to a 3D coordinate system. Moreover, there is nothing that says there is a field of the second node that contains a third coordinate.

Response to Arguments

6. Applicants’ arguments filed 29 May 2008 have been considered but are moot in view of the new grounds of rejection, necessitated by amendment.

Applicants have presented entirely newly added claims in response to the prior rejection, and have canceled the original claims. The additional claims raise numerous issues of new matter. Moreover, the issues of new matter are significant to an extent where no meaningful search of the prior art can be performed until these issues are resolved. Accordingly, the new grounds of rejection under 35 U.S.C. §112, 1st ¶, as failing to provide a proper written description, where they are necessitated by amendment, are proper in a final rejection.

Conclusion

7. Applicants' amendment necessitated the new grounds of rejection presented in this Office Action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARTIN LERNER whose telephone number is (571)272-7608. The examiner can normally be reached on 8:30 AM to 6:00 PM Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Hudspeth can be reached on (571) 272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Martin Lerner/
Primary Examiner
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November 6, 2008

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